

LEGISLATIVE AUDIT COMMISSION



Review of
Judicial Inquiry Board
Two Years Ended June 30, 2004

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REVIEW: 4222
JUDICIAL INQUIRY BOARD
TWO YEARS ENDED JUNE 30, 2004

FINDINGS/RECOMMENDATIONS - 1

ACCEPTED - 1

REPEATED RECOMMENDATIONS - 1

PRIOR AUDIT FINDINGS/RECOMMENDATIONS - 1

This review summarizes the auditors' report of the Judicial Inquiry Board for the two years ended June 30, 2004, filed with the Legislative Audit Commission February 25, 2005. The auditors conducted a compliance examination in accordance with State law and *Government Auditing Standards*.

The Judicial Inquiry Board was created by the Constitution of the State of Illinois, which became effective in 1971. The Board consists of nine members (two Circuit court judges, three lawyers and four non-lawyers). The two Circuit Court Judges are selected by the Illinois Supreme Court and the remaining seven members are appointed by the governor.

The Judicial Inquiry Board is the sole disciplinary entity to inquire into allegations of misconduct or physical or mental incapacity of Illinois judicial officers. After investigation and upon determination by the Board that there is a reasonable basis to charge a judge with misconduct or incapacity, the Board will file and prosecute a formal complaint before the State of Illinois Court Commission. Appendix A summarizes the type and number of allegations received by the Board from FY02 through FY04.

Kathy D. Twine, Esq., was the Executive Director during the audit period. She has held that position since January 1998. Mr. William A. Sunderman, a lawyer, is the Chairman of the Board. Other Board members for FY04 included Circuit Judges Michael J. Murphy and Frederick J. Kapala; lawyers Lindsay A. Parkhurst and Jill W. Landsberg; and non-lawyers Michael Pittman, John Kreisler, Myrna H. Mazur. There were five full-time employees.

Financial Information

The General Assembly appropriated a total of \$670,500, all from GRF, to the Judicial Inquiry Board during FY04. Appendix B summarizes the appropriations and expenditures for the period under review.

Total expenditures were \$605,596 in FY03, compared to \$576,107 in FY04, a decrease of \$29,489, or 4.9%. The decrease was primarily due to decreased spending for contractual services.

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The Board recorded no cash receipts in FY04 or FY03. Property reports submitted to the Office of the Comptroller show \$98,441 and \$100,157 in equipment for FY04 and FY03, respectively. Lapse period expenditures were \$22,801, or about 4%.

Accountants' Findings and Recommendations

Condensed below is the one finding and recommendation included in the audit report. This is repeated from the prior audit. The following recommendation is classified on the basis of information provided by William A. Sunderman, Chairman of the Judicial Inquiry Board, and received via electronic mail on July 8, 2005.

Accepted

- 1. Develop and document policies and procedures for each area of daily operations including procedures over personal service, operation of automobiles and computer systems. (Repeated-2002)**

Findings: The Board did not have adequate written policies and procedures over its daily operations. The Board's "Policy for Daily Operations" does not address procedures and policies for significant aspects of the Board's daily operational activities. The auditors noted the following major areas lacked adequate written policies and procedures regarding:

- Hiring, dismissals, salaries, and performance appraisals.
- Logs for use of vehicles, odometer readings, mileage and destination.
- Computer security, back-up and recovery, user responsibility, and unauthorized use of software.

Response: Within the next 120 days, the Board and/or its designee will review its formal and informal policies and procedures for each area of its daily operations and expand/document areas that the Board and/or its designee determine are necessary to prevent inaccurate record keeping, improper accounting for transactions, loss and/or misuse of State assets, and loss of information during staff turnovers.

Updated Response: The Judicial Inquiry Board ("JIB") is an independent agency created pursuant to the provisions of Article VI, Section 15 of the Illinois Constitution of 1970. Under the provision of Article VI, Section 15(d), the Board is allowed to adopt rules governing its procedures. The General Assembly, by law, shall appropriate funds for the operation of the Board. Section (d) also provides that the Board has the authority to appoint and direct its staff.

In 1992, upon inquiry from the JIB, the Chief Legal Counsel of the Department of Central Management Services ("CMS") provided a legal opinion that stated that the JIB was not

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subject to the provisions of the Illinois Personnel Code. In 1993, the Attorney General concluded that the JIB was an independent state entity.

Notwithstanding the Constitutional independence of the JIB, the Board has since 1985 adopted various policies and rules premised upon the policy and rules implemented by other non-independent state agencies. Policies, including, but not limited to a written policy of daily operations have been implemented as early as 1996. Policies relating to the use of state owned automobiles have been in place since 1985.

The Board respectfully accepts the recommendation of the compliance examination performed by the Office of the Auditor General. However, the independent Constitutional status of the Board and the fact that the entire staff of the Board consists of five individuals, requires the Board to implement such policies and procedures that it may determine appropriate.

Upon receipt of the Auditor General's Report, the Board's Executive Director has commenced a comprehensive review of its current policies and procedures and will present her final recommendations to the Board on September 9, 2005.

In light of the Seventh Circuit Court of Appeals' decision in *Crull vs. William Sunderman et al.*, Board policies with respect to employment matters will continue to provide "at will" employment status for the Board's employees, allowing broad discretion to the Board in all matters of employment.

Emergency Purchases

The Illinois Purchasing Act (30 ILCS 505/1) states, "The principle of competitive bidding and economical procurement practices shall be applicable to all purchases and contracts..." The law also recognizes that there will be emergency situations when it will be impossible to conduct bidding. It provides a general exemption for emergencies "involving public health, public safety, or where immediate expenditure is necessary for repairs to State property in order to protect against further loss of or damage ... prevent or minimize serious disruption in State services or to insure the integrity of State records. The Chief procurement officer may promulgate rules extending the circumstances by which a purchasing agency may make 'quick purchases', including but not limited to items available at a discount for a limited period of time."

State agencies are required to file an affidavit with the Auditor General for emergency procurements that are an exception to the competitive bidding requirements per the Illinois Purchasing Act. The affidavit is to set forth the circumstance requiring the emergency purchase. The Commission receives quarterly reports of all emergency purchases from the Office of the Auditor General. The Legislative Audit Commission is directed to review the purchases and to comment on abuses of the exemption.

During FY03 and FY04, the Board filed no affidavits for emergency purchases.

Headquarters Designations

The State Finance Act requires all State agencies to make semiannual headquarters reports to the Legislative Audit Commission. Each State agency is required to file reports of all of its officers and employees for whom official headquarters have been designated at any location other than that at which their official duties require them to spend the largest part of their working time.

The Judicial Inquiry Board indicated as of July 2004 that there were no employees assigned to locations other than official headquarters.